

**STATEMENT OF THEODORE R. QUASULA, ACTING PHOENIX AREA DIRECTOR,  
BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, TO THE  
SUBCOMMITTEE ON AVIATION OF THE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION, UNITED STATES SENATE ON THE PROPOSED FLIGHT RULES  
IN THE VICINITY ON THE GRAND CANYON NATIONAL PARK.**

(THE HEARING WAS HELD ON OCTOBER 11, 1996, IN TEMPE, ARIZONA)

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We appreciate the opportunity to provide testimony to the record for the hearing regarding the proposed Federal Aviation Administration (FAA) rule to regulate air tour overflights within the vicinity of the Grand Canyon National Park (GCNP). The Special Flight Rules Area (SFRA) includes airspace of the Hualapai, Havasupai and Navajo Indian Reservations, and other Federal, State and Private lands.

The Bureau of Indian Affairs' (BIA) mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes (tribes) and Alaska Natives. We maintain government-to-government relationships within the spirit of Indian self-determination.

One of our first concerns with the proposed rule process is the lack of adequate consultation by the FAA and the National Park Service (NPS) with the affected tribes on a government-to-government basis regarding the rule. We reference the following directives which clarifies Federal agencies responsibility to consult and/or consider impacts to tribes: President William J. Clinton on April 29, 1994, issued a "Memorandum For Heads of Executive Departments and Agencies, Subject: Government-to-Government Relations with Native American Tribal Governments"; the Department of the Interior's Secretarial Order 3175 dated November 8, 1993, which discusses Departmental responsibilities for Indian trust resources; and Executive Order 12898 Environmental Justice dated February 11, 1994, which directs agencies to identify and address environmental effects of their activities on low income and minority populations.

There are at least eight (8) Indian tribes that will be impacted from the FAA's and NPS actions associated with the proposed rule. The tribe's whose lands are included in the SFRA are the Hualapai, Havasupai and Navajo Nation. Other tribes who have traditional and spiritual ties to the Grand Canyon are the Hopi, Pueblo of Zuni, Kaibab Paiute, San Juan Southern Paiute and Paiute Tribe of Utah.

The implementation of the rule will shift a large number of air tour flights, including any negative impacts associated with such flights, off of the GCNP and onto Indian lands and their airspace. The proposed rule could cause significant negative social, economic, and environmental impacts to tribes included in the SFRA. The environmental impacts of the proposed rule have not been

assessed for any of the Indian lands or their cultural ties to the Grand Canyon. The Draft Environmental Assessment (EA) prepared by FAA and released for public review in August 1996 did not adequately address impacts to tribal trust resources either.

The proposed rule also does not address the location of the new routes to be established once the Flight Free Zones (FFZ) are expanded or established. It is impossible to adequately assess the impacts of the proposed rule on Indian lands and people until the new route structure is identified.

We recommend that any initiation of capacity limits (caps) and curfews on air tour operators should provide a specific exemption to tribes for any flights sanctioned by such tribes over their own lands. Curfews could create serious safety problems in several areas, and especially over the northwest corner of the Hualapai Indian Reservation in the vicinity of the Grand Canyon West airport.

Currently, flights start arriving in the area referenced above from Las Vegas and Boulder City, Nevada and Grand Canyon, Arizona by daylight and continue until near dark. If these flights are compressed into a smaller time period, the congestion of air traffic will be substantial, particularly first thing in the morning. With the establishment of the Sanup Plateau FFZ, there will be too many aircraft in that area with routes close together for flights in opposite directions.

The establishment of flight-free periods for commercial sightseeing operations including variable flight-free periods could create negative impacts to the neighboring tribes to GCNP. We recommend that tribal commercial operations be considered governmental flights and be exempted from the SFRA restrictions.

We believe that the EA dated May 27, 1988, which was conducted for the original Special Flight Aviation Rule (SFAR) 50 regulations did not completely comply with the National Environmental Policy Act (NEPA) requirements, Title 40 Code of Federal Regulations, Part 1501. Scoping and public input, and notice was not appropriately served. Impacts of the FAA's action on people, lands and resources outside the GCNP were not identified or assessed.

The current Draft EA for the proposed rule and revision of SFAR 50-2 does not adequately address impacts outside of the GCNP concerning tribal lands, airspace, and resources. We recommend that the Draft EA be revised and resubmitted for further public review or an expanded NEPA documentation be completed if significant impacts are determined to exist.

Our detailed comments on both the proposed rule and Draft EA have been submitted to the FAA to be included in the rulemaking dockets. Thank you for the opportunity to provide our comments on these issues to the Aviation Subcommittee.